

TOWN OF KITTERY, MAINE  
PLANNING BOARD MEETING  
Council Chambers

APPROVED  
July 25, 2013

Meeting called to order at 6:08 p.m.

Board Members Present: Tom Emerson, Deborah Driscoll, Mark Alesse

Members absent: Ann Grinnell, Susan Tuveson, Rich Balano, Bob Melanson

Staff: Gerry Mylroie, Planner

Pledge of Allegiance

A quorum of Board members was not present, and it was decided to continue the meeting to discuss agenda items with no action.

Minutes:

June 27, 2013

July 11, 2013

Approval of the minutes was deferred due to lack of a quorum

Public Comment:

Public comment and opinion are welcome during this open session. However, comments and opinions related to development projects currently being reviewed by the Planning Board will be heard only during a scheduled public hearing when all interested parties have the opportunity to participate.

Herb Kingsbury, Conservation Commission, asked about some proposed ordinance changes:

- Definition of 'substantially complete'. Mr. Emerson stated the customary definition can be used, but a definition for the code will be crafted.
- Definition of 'shorefront'. This is defined in the ordinance under 'shorefront development'. Ms. Driscoll asked about a definition of 'shoreland'. This is primarily used to identify zones and setback distances. A definition for 'shoreland' will be crafted.
- Field Changes: The proposed amendment would require all field changes be reviewed by the Planning Board.
- Right-of-way: The proposed amendment will remove the right-of-way ordinance section.
- Street opening permits: In an agreement with the DPW Commissioner, curb-cuts for utility related construction will continue to be reviewed by DPW, but driveway opening applications will be reviewed by the Town Planner as well, prior to permitting.

**ITEM 1– Town Code Amendment - Title 16 Land Use Development Code.** Amendments are proposed to the following:

- 1) *16.8.9.4.M Off -Street Parking Standards*. Replace "Board of Appeals" with "Town Planning Board".
- 2) *16.8.10.9.L.4 Signs Allowed Without a Sign Permit – Real Estate Signs*. Replace "Code" with "title".
- 3) *16.10.8.2.1 Planning Board Review and Decision – Final Plan Conditions of Approval*. The addition of "...for on-site as well as off-site improvements related to the project".
- 4) *16.10.9.1.4.B Approved Plan Expiration*; Replace "or" with "and".

Mr. Mylroie submitted additional language for consideration for 16.10.8.2.1:

*...off-site improvements required to meet Town Code requirements such as, but not limited to, street curbs, sidewalks, and/or street trees, as well as to mitigate off-site development impacts from on-site development such as, but not limited to traffic signals, traffic directional signs, street shoulders, water and/or sewer connections, and/or street lighting and the amount of all performance guarantees which may be required.*

This additional wording more clearly allows the Board to require off-site improvements to areas impacted by developments. Following discussion, the following language was accepted for further Board discussion:

*Off-site improvements to meet Town Code requirements, such as street improvements, signals, signage, lighting, sidewalks and/or street trees, water and/or sewer connections, may be required to mitigate a development's impact.*

Members concurred these changes can be included for further discussion and a public hearing on August 22, 2013.

## **OLD BUSINESS**

### **ITEM 2 –Town Code Amendment – Title 16, Chapter 11, Marine Development.**

Amendments include changes to procedures allowing for Port Authority application submittal prior to obtaining State and Federal permit approvals.

Mr. Alesse noted grammar and spelling errors needing attention. Following discussion, the following changes were recommended for further discussion [recommended changes *italicized*]:

#### 16.11.2

A. *Shorefront development applications for marine-related use* must include the following:

1. *Aerial photographs and vicinity maps and plans showing the property in relation to surrounding properties, and the location of the lots that would have use of the pier, ramp and float system. Maps and plans to include;*

- a. Construction *plans for* piers, ramps and floats;
- b. *Areas of vegetation clearing;*
- c. Location of *required* parking space(s); and
- d. *Location* of boat and/or float storage.

#### 16.11.3

B. If Planning Board review is not required, the Town Planner in consultation with the Code Enforcement Officer will review the application for land use compliance with this Code, *forward* a written record of findings *to the Planning Board and the Port Authority*, and forward the application to the Port Authority for processing.

E. All required local, federal and state approvals must be received *in the Planning Office* prior to the issuance of a building permit by the Code Enforcement Officer.

The Board requested the revised amendment be presented at the August 22 meeting with new changes and re-numbering as needed, and concurred these changes can be included for further discussion and possible recommendation to Council on August 22, 2013.

**ITEM 3 –Town Code Amendment – 16.10.9.2 Field Changes and 16.10.9.3 Modifications to an Approved Plan.** Discuss what changes may be required to meet the goals determined by the Board.

Members concurred these changes can be included for further discussion and a public hearing on August 22, 2013.

**ITEM 4 –Town Code Amendment – 16.10.7.2.T - Right-Of –Way Plan Review Application**

Discuss what changes may be required to meet the goals determined by the Board at the recent Workshop. A discussion on the town allowance for Right-Of-Way Plan Review and Approval and if modifications to the Code are warranted to support planned growth and development goals in the Comprehensive Plan. Mr. Mylroie explained the proposed changes are recommended following the 7/18/13 workshop discussion. In summary, the language for a right-of-way plan (16.10.7.2.T) will be removed from the ordinance, and replaced with *Land Division or Lot Line Adjustment Plan*.

Proposed ordinance amendments [*italicized*]:

*Land division means the dividing of land into two lots or dwelling units and containing or not containing a proposed street and/or which division is not otherwise subject to review as a subdivision.*

16.10.3.1 General Development, Site *Land Division or Lot Line Adjustment* and Subdivision Plans Review.

All proposed development including site, *land division, lot line adjustment*, subdivision, business use...

16.10.3.2 Other Development Review

An applicant or applicant's authorized agent must obtain Planning Board approval...except the following, unless located within the Shoreland Overlay or Resource protection Overlay Zones:

~~C. Division of land into lots (i.e. two lots) which division is not otherwise subject to Planning Board review as a subdivision.~~

Following discussion, the Board agreed to include Section 16.10.5.2.B.10 and Section 16.10.5.2.C with the proposed new amendments for *Land Division or Lot Line Adjustment Plan* to determine if any of those sections' requirements should be excluded.

The Board requested the revised amendment be presented at the August 22 meeting with proposed changes and supporting documentation for further discussion.

**ITEM 5 – Town Code Amendment – 12.1 Excavations, Title 12, Streets, Sidewalks and Public Spaces.** Discuss what changes may be required to meet the goals determined by the Board at the recent Workshop and to make a recommendation to Town Council. Amend Section 12.1.2 *Issuance and Record of Permits* to include review by the Town Planner and Code Enforcement Officer prior to the Commissioner of Public Works issuing permits for driveway cuts.

Following the July 18 workshop with the Commissioner of Public Works, Mr. Mylroie presented the following language for consideration. Proposed ordinance amendments [*italicized*]:

12.1.2 Issuance and Record of Permits

The Commissioner of Public Works is authorized to issue permits and is to keep a record of all permits granted. *Prior to the issuance of a Driveway Entrance Permit, the application also must be submitted for review and approval by the Town Planner to assure conformance with adopted plans and Town Code.*

Discussion followed regarding maximum lengths and widths of driveways, clearing of vegetation, and existing ordinance language. Members suggested adding:

Proposed driveways longer than 100 feet in length or 12 feet in width require Planning Board approval.

Members concurred these changes can be included for further discussion and a public hearing on August 22, 2013.

## **NEW BUSINESS**

### **ITEM 6 – Board Member Items / Discussion**

- A. Review the Board's punch list, update and establish priorities;
- B. Review the By-Law changes suggested by Councilor Dennett; Mr. Emerson asked these changes be brought back to the Board to finalize.
- C. Discuss information learned at a recent workshop on municipal planning boards; Ms. Driscoll will provide information for possible handouts; and
- D. Other

Mr. Emerson explained a Council member asked to meet in a workshop with the Board, Council and the Wood Island Life Saving group in order to determine what could be permitted at Wood Island per Code. He felt the Board is not the appropriate venue for this discussion as the Board does not provide pre-application development direction. It is the responsibility of Code and Planning staff to provide direction and Code interpretation prior to Board review. Mr. Mylroie suggested the staff provide a summary of permitted uses and provide to the Board.

Ms. Driscoll has received many compliments on the flagpole, however some concern about removal of remaining trees. A report was received that people are attempting to cross the traffic circle to access the flagpole area. Mr. Emerson stated signage needs to be developed to help direct people to the memorial next to Town Hall. Mr. Mylroie stated temporary lights are in, but permanent lights will be installed and finish site work should be completed in October.

### **ITEM 7 – Town Planner Items:**

- A. Residential Growth Management
- B. Quality Improvement Overlay Zone; and

Mr. Mylroie provided copies of the proposed QIP Overlay Zone ordinance amendment previously distributed in January, 2013. He noted outdoor seating needs to be revisited for the business zones.

#### **C. Other**

- Follow up is needed for the QIP, Kittery Foreside.
- Sarah Long Bridge: Issues regarding the landing of the bridge in Kittery impacting access roads and driveway access/egress.
- Sewer Bond: Future Planning Board participation in sewer line location.
- Shore and Harbor Comprehensive Plan

Ms. Driscoll moved to adjourn

Mr. Alesse seconded

Motion carried unanimously by all members present

The Kittery Planning Board meeting of July 25, 2013 adjourned at 8:23 p.m.  
Submitted by Jan Fisk, Recorder, July 26, 2013